

## REMARKS

In the September 27, 2004 Office Action, the Examiner noted that claims 17-31 were pending in the application; required information under 37 C.F.R § 1.105; objected to Figs. 1 and 2; rejected claims 17, 24, 28 and 31 under the second paragraph of 35 U.S.C. § 112; and rejected claims 17-31 under 35 U.S.C. § 102(a). In rejecting the claims, the Examiner cited "the admitted prior art (APA) of pages 1-3" (Office Action, paragraph 14, line 2). Claims 17 and 24 have been cancelled and claim 32 has been added. Thus, claims 18-23 and 25-32 remain in the case. The Examiner's rejections are traversed below.

### Formal Requirements

In item 4.b on page 2 of the Office Action, the Examiner noted that the Preliminary Amendment filed December 3, 2001 did not state that no "new matter" was added in the Substitute Specification. As the Examiner presumably determined in considering whether the Substitute Specification was compliant with 37 C.F.R § 1.105, no "new matter" was added in the Substitute Specification and no "new matter" has been added by this Amendment.

In item 5 on pages 2-3 of the Office Action, the Examiner required that the Applicant and Assignee "provide the following information that the examiner has determined is reasonably necessary to the examination of this application" (paragraph 5, lines 2-3) followed by the identification of the book by P. Liggesmeyer and references identified as DIN 25424-1 and DIN 25424-1 which were submitted with the Information Disclosure Statement filed December 3, 2001. Attached to the September 27, 2004 Office Action was a marked up copy of FORM PTO-1449 in which these three references were indicated as "not considered because translated copy not available".

It is not understood why item 5 requests a copy of references that the Examiner clearly had available on September 20, 2004 when the references in English were considered as indicated by the Examiner's initials on FORM PTO-1449. If item 5 of the Office Action was intended to be a request for English translations of these references (no mention of English translations was found in item 5), the undersigned is unaware of the existence of any English translations. However, if the Examiner issues a request for English translations, it will be determined whether any are available.

In item 10 on page 4 of the Office Action, the Examiner objected to Figs. 1 and 2 as containing "reference numerals without meaningful legends" (paragraph 10, line 2). No rule of the U.S. Patent and Trademark Office was cited in support. However, as noted above, the

**AMENDMENTS TO THE DRAWINGS:**

In the Office Action at item 10, the Examiner objected to the drawings and required corrections. Replacement figures are submitted herewith adding as English legends the words in the Substitute Specification corresponding to the reference numerals in the drawings as filed. For the convenience of the Examiner, annotated sheets showing the changes made are attached. Approval of these changes to the Drawings is respectfully requested. Approval of these changes to the Drawings is respectfully requested.

words in the Substitute Specification corresponding to the reference numerals appearing in Figs. 1 and 2 have been added. Therefore, withdrawal of the objection is respectfully requested.

### **Rejections under 35 U.S.C. § 112, Second Paragraph**

In item 12 on pages 4-5 of the Office Action, claims 17, 20, 24, 28 and 31 were rejected under the second paragraph of 35 U.S.C. § 112 for indefiniteness. As noted above, claims 17 and 24 have been cancelled. Claims 22 and 29 have been amended to incorporate the limitations in claims 17 and 24 and therefore, the rejections of claims 17 and 24 will be addressed below with respect to claims 22 and 29.

In item 12.a, the Examiner asserted a lack of antecedent basis for "the fault description" in claim 20 due to use of the terms "element fault description" and "overall fault description" in claim 17. This rejection apparently was partially the result of finding that "fault description" and "element fault description" were the same, while in claim 17 as originally presented, each of these terms and "fault description" should have been interpreted as three distinct things, as discussed below. Claim 20 has been amended in an effort to avoid any confusion regarding the antecedent basis for the terms recited therein.

In item 12.a, the Examiner also found a lack of antecedent basis for the term "the section of the computer program" in claims 24 and 28. Claim 24 has been cancelled and it is submitted that the wording of the limitations previously recited in claim 24 that were incorporated into claim 29 contain no lack of antecedent basis. Claim 28 has been amended as required to overcome the rejection.

In item 12.b on page 5 of the Office Action, the Examiner stated that it was unclear whether the "program elements" and "reference elements" were the same or distinct elements. Since different adjectives were used without any adjectives in common, it should have been assumed that the elements were different, rather than the same, particularly since this is consistent with the description in the specification, e.g., in paragraph [0034] on page 7 of the Substitute Specification. To avoid the misinterpretation of the claims that occurred in the initial examination, the limitations of claims 17 and 24 that were incorporated into claims 22 and 29, respectively, have been reworded and claim 31 has been amended.

The Examiner also interpreted the term "element fault description" to mean the same thing as "fault description for each reference element", apparently as a result of the misinterpretation of "program elements" and "reference elements" as being the same. The language in amended claims 22, 29 and 31 has been revised from that in claims 17, 24 and 31 as originally

presented, by using the plural form to refer to the fault descriptions when originally stored and the singular form has been used to refer to the fault description associated with a corresponding reference element for a selected program element.

For the above reasons, withdrawal of the rejections under the second paragraph of 35 U.S.C. § 112 is respectfully requested.

If there is any remaining question regarding vagueness or indefiniteness in any of the claims, the Examiner is respectfully requested to contact the undersigned by telephone prior to issuing another Office Action, so that further amendments can be made, if necessary, in an expeditious manner.

### **Rejections under 35 U.S.C. § 102**

In item 14 on pages 5-8 of the Office Action claims 17-31 were rejected under 35 U.S.C. § 102(a) as unpatentable over the APA on pages 1-3, apparently of the Substitute Specification since paragraph numbers were used in identifying where the cited operations were allegedly taught. In making these rejections, it was acknowledged that the "APA does not specifically disclose *wherein the overall fault description is ascertained as an overall fault tree, and wherein said method further comprises altering the overall fault tree in terms of prescribable boundary conditions*" (Office Action, page 7, lines 18-20). However, it was asserted that these features were "deemed to be inherent to the teaching of DIN 25424-1 and DIN 25424-2" (Office Action, page 7, line 20 to page 8, line 1), despite the acknowledgement on FORM PTO-1449 that these documents were not considered. The only bases for the assertion that the operations recited in claims 22 and 29 as originally presented were in the APA were paragraphs [0008] and [0009] of the Substitute Specification.

The words in paragraph [0008] merely state that DIN 25424-1 relates to fault tree analysis where a fault tree as used therein is "a structure which describes logical relationships between input variables for the fault tree which lead to a prescribed undesirable event" (Substitute Specification, page 2, last two lines). Furthermore, paragraph [0009] merely notes that DIN 25424-2 "discloses various methods for fault tree analysis" (Substitute Specification, page 3, line 4).

It is submitted that the statements quoted above from paragraphs [0008] and [0009] are of too general a nature to suggest to one of ordinary skill in the art the final two operations recited in claim 22. These two paragraphs in the application do little more than acknowledge that fault tree analysis was known. This is hardly an admission that one of ordinary skill in the

art would find it obvious to generate an "overall fault tree using the fault descriptions of the program elements from the computer program, with a structure of the overall fault description taking into account a structure of the joint flow description" (claim 22, lines 17-20). Furthermore, there is not the slightest suggestion of the final operation recited in claim 22, "altering the overall fault tree in terms of prescribable boundary conditions" (claim 22, line 21). Similar limitations are recited in claim 29 and have been added to claim 31; therefore, it is submitted that claims 22, 29 and 31 patentably distinguish over the APA. Since the remaining claims all depend from one of these claims, it is submitted that claims 18-23 and 25-32 patentably distinguish over the prior art.

In rejecting claims 23 and 30, the Examiner acknowledged that the "APA does not specifically disclose *wherein said altering comprises adding a complementary fault tree*" (page 8, lines 4-5). However, as in the case of the limitations recited in claims 22 and 29, it was asserted that this operation was inherent in the teachings of DIN 25424-1 discussed in paragraph [0008] of the Substitute Specification.

As discussed above with respect to claim 22, there is absolutely nothing in either paragraph [0008] or [0009] regarding what was known in the prior art about altering fault trees. This includes "adding a complementary fault tree" as recited on line 2 of claims 23, 30 and 32. Therefore, it is submitted that claims 23, 30 and 32 further patentably distinguish over the prior art for this additional reason.

## **Summary**

It is submitted that there is nothing in the Background of the Invention section of the application that has been admitted by the Applicant which anticipates the claimed invention. Since the Examiner was unable to find any prior art reference that could be cited disclosing the claimed invention, it is submitted that claims 18-23 and 25-32 are in a condition suitable for allowance. Reconsideration of the claims and an early Notice of Allowance are earnestly solicited.

Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

STAAS & HALSEY LLP

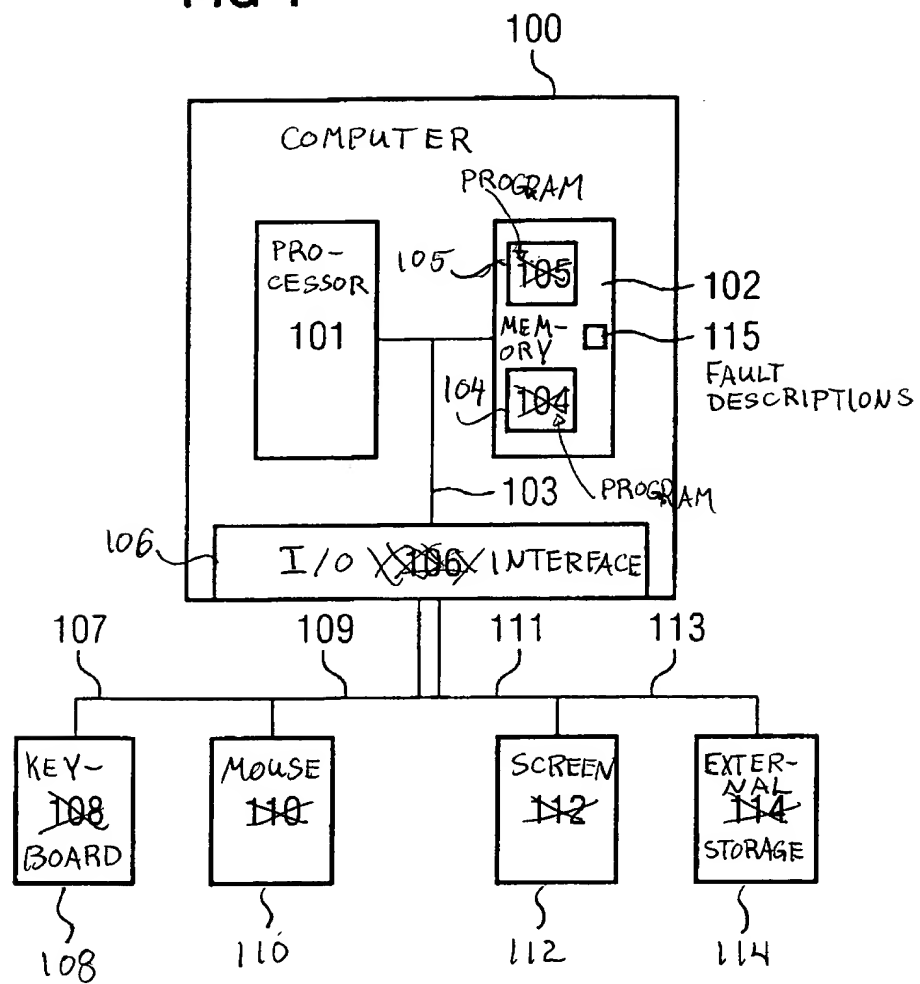
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FIG 1





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FIG 2

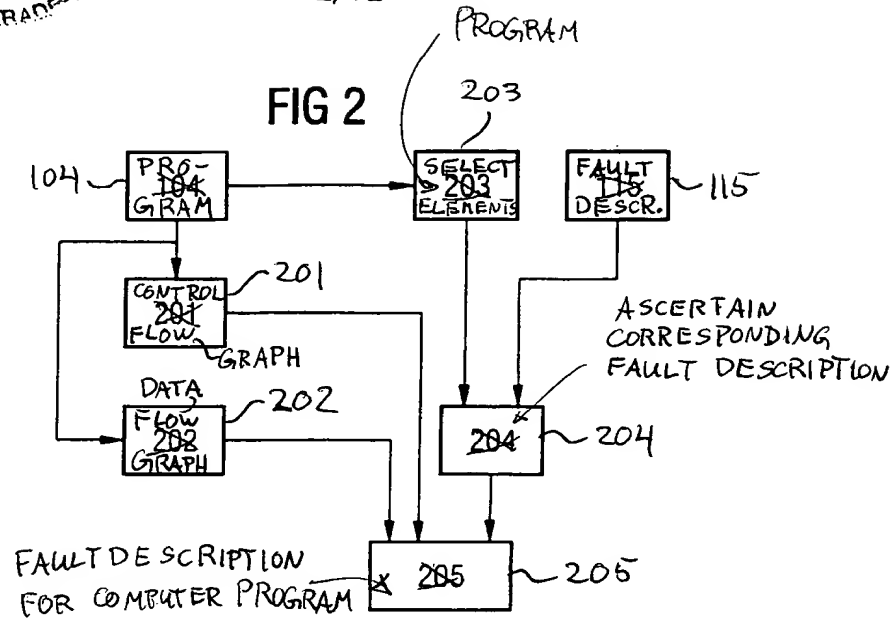


FIG 3

